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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,800	07/24/2003	Raul Curbelo	15608	1426
23389	7590	06/28/2004	EXAMINER	
SCULLY SCOTT MURPHY & PRESSER, PC			GABOR, OTILIA	
400 GARDEN CITY PLAZA			ART UNIT	PAPER NUMBER
GARDEN CITY, NY 11530			2878	

DATE MAILED: 06/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/626,800

Applicant(s)

CURBELO, RAUL

Examiner

Otilia Gabor

Art Unit

2878

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 07/24/2003.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 1-11 are objected to because of the following informalities: claim 1 should include a period to indicate the end of the claim. Appropriate correction is required.

The rest of the claims are objected to as being dependent from an objected claim.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5, 9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Haschberger et al. (U. S. Patent 6,147,762).

Haschberger et al. discloses an apparatus and method for acquiring interferogram data in a Fourier transform infrared spectrometer that provides an output signal that is corrected for non-linear distortions introduced by the detector. The measured interferogram, the measured spectrum, the linear interferogram, the linear spectrum as well as the measurement of coefficients are represented by power series and relationships and measuring steps as claimed in the present application.

Haschberger et al. discloses this correction method as applicable when any type of detector is used, and he mentions the MCT photovoltaic detector as one exemplary

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detector (see Col.1, lines 37-43). He also discloses the conventional measured interferogram collection as including the steps of collecting by an AC signal channel and a DC offset taking from the measured interferogram collected by a DC coupled signal channel (see prior art and U.S. Patent 4,927,269 disclosed in Cols.1 and 2).

Haschberger et al. also discloses obtaining the coefficients of the expansion of the spectrum from a set of measurements selected from a spectra of the powers of the measured interferogram where $S=0$ and also from additional spectral ranges, and uses the least square approximation.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6-8, 10-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haschberger et al.

Regarding claim 12 Haschberg fails to explicitly disclose the presence of a reference radiation source, however this element is inherently present since he discloses that a reference spectrum is measured and the ratio of the measured and reference spectra is determined.

Regarding claims 6-8, 10, 11, 19-23 Haschberg fails to specifically disclose the claimed detectors, however, since the type of detector used is irrelevant to his

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correction process, any conventionally used detectors in the art can be used. As such, the method inherently applies when the detector is a single-point detector (see U.S. Patent 5,377,003), or a one-dimensional detector (see U.S. Patent 5,811,059), or a two-dimensional detector (see U. S. Patent 6,455,851), or a photovoltaic detector (see U. S. Patent 5,581,085), or a photoconducting detector (see U. S. Patent 6,466,961), or a bolometric detector (see U. S. Patent 6,731,961).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Otilia Gabor whose telephone number is 571-272-2435. The examiner can normally be reached on Monday-Friday between 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Porta can be reached on 571-272-2444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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